

REMARKS**I. INTRODUCTION**

Claims 16-25 and 62 have been canceled. Claims 1, 3, 4, 60, 61, 65, 67-69 and 71 have been amended. No new matter has been added. Thus, claims 1-15, 26-61 and 63-73 remain pending in the present application. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

II. THE 35 U.S.C. § 102(a) REJECTIONS SHOULD BE WITHDRAWN

The Examiner has rejected claims 60-64 under 35 U.S.C. § 102(a) as anticipated by International Application Publication WO 93/16443 to Humble ("the Humble reference"). (See 4/21/05 Office Action, ¶ 4).

The Humble reference describes an individualized promotional programming network for use in a number of retail establishments. (See the Humble reference, Abstract). The network includes a checkout station 20 coupled to an audiovisual display apparatus 50, which displays promotional and entertaining programming to a customer at the checkout station 20. (Id. at p. 8). An electronic marketing profile is created for each customer based on identities of products presented at the checkout station 20 and the customer's choices of promotions and entertainment using the audiovisual display apparatus 50. (Id. at p. 9). The promotional/entertainment programming displayed on the audiovisual display apparatus 50 is controlled by a processor 80, which selects a program "based on at least one of the selection entered by the customer and the identity of the products..." (Id. at p. 10).

Claim 60 has been amended to include the limitations of claim 62. Thus, claim 60 recites a method for displaying advertisements ("ads") at a point-of-sale (POS) location comprising "receiving a first ad for display during a consumer transaction and without regard to whether the transaction meets predetermined criteria" and "engaging in the transaction" in conjunction with "receiving a second ad for display when the transaction meets predetermined criteria."

The Examiner has noted that the Humble reference discloses the network, "wherein the system goes into a default mode and displays advertising from memory without interaction f[ro]m the consumer." (See 4/21/05 Office Action, ¶ 85). However, this portion of the Humble reference is clearly directed to a time before the consumer transaction has started. Once a transaction has started, the Humble reference states, "[p]rograms are selected for display

based on the customer preferences, a stored customer profile, and the identity of the products...”

(See the Humble reference, Abstract). Programs are selected as follows:

The particular program selected is based upon on one or both of the selection made by the consumer and the identity of products presented for purchase. For example, one of the selection and the identities of products (or a profile developed therefrom) can limit the selection to a subset of the available programs and the other of the selection and the identities can be used to select the particular display program from the subset.

(Id. at p. 11). Furthermore, when describing a method utilizing the network of the Humble reference, the disclosure states, “detecting at a checkout station of the retail establishment products presented by a customer for purchase” and “selecting a display program...relating to one of the customer and the products detected...” (Id. at p. 15). Thus, the Humble reference teaches that during a consumer transaction, the promotional content/programs are selected based on the customer profile or the product identity.

The default mode described by the Humble reference is utilized when the audiovisual display apparatus 50 is not in use by consumers. (Id. at pp. 13-14). Thus, it is respectfully submitted that the Humble reference neither shows nor suggests that the default mode can occur during a consumer transaction. Therefore, it is respectfully submitted that the Humble reference does not disclose or suggest “receiving a first ad for display during a consumer transaction and without regard to whether the transaction meets predetermined criteria,” as recited in claim 60.

Accordingly, it is respectfully requested that the rejection of claim 60 be withdrawn. Because claims 61 and 63-64 depend from, and therefore include all of the limitations of claim 60, it is respectfully submitted that these claims are allowable for the reasons stated above.

III. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN

The Examiner has rejected claims 1-13, 29-59, 65-66 and 68-73 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent 6,401,074 to Sleeper ("the Sleeper reference"). (See 4/21/05 Office Action, ¶ 11).

The Sleeper reference describes an augmented point of sale (POS) system that displays, during a retail transaction, promotional information to a customer selected on the basis of the context of the transaction. (See the Sleeper reference, Abstract). The augmented POS, or promotional retailing system (PRS), consists of a new generation POS system (PC 102, display monitor 104, cash drawer component 108, printing device 110) used at a check out counter 111, and further includes an auxiliary display device 602. (Id. at col. 6, lines 1-10). As described by the Sleeper reference, a retail transaction includes various events "E." (Id. at col. 6, lines 43-46). For example, an identification of a consumer using a membership card is an event. (Id. at col. 6, lines 50-58). Other examples of events include: an end to a scan input (step 408), display of a price (step 412), adding to a list of items (step 416) and deleting from the list of items (step 422). (Id. at col. 7, lines 11-14). For each designated event, the PRS may carry out the event and display promotional material, informational messages, discounts and specials on the auxiliary display device 602. (Id. at col. 7, lines 56-67).

Claim 1 recites a method for displaying advertisements ("ads") at a point-of-sale (POS) location comprising "dividing a consumer transaction at a POS location into multiple time frames, a total duration of the time frames equaling a total duration of the transaction" and "determining an advertisement (ad) for display in one of the time frames" in conjunction with "displaying the ad in one of the time frames."

The Examiner has acknowledged that the Sleeper reference fails to disclose "dividing a consumer transaction at a POS location into multiple time frames" and "determining/displaying an ad in one of the time frames." (See 4/21/04 Office Action, ¶ 13).

The Examiner further stated, however, that the Sleeper reference does disclose defining parts of a transaction by events, and displaying commercial information based on the event. (Id. at ¶ 14). The Examiner has admitted that the Sleeper reference does not fully disclose even a single one of the recited elements of claim 1, but then attempts to equate the events of the Sleeper reference with the time frames disclosed in the present specification. (Id. at ¶ 14).

Applicants respectfully disagree with the Examiner's analogy. The Sleeper reference discloses that some of the steps in the consumer transaction are "events." For example, the Sleeper reference states, "[v]arious steps in FIGS. 3-5 are labeled with a letter 'E' within a circle, such as step 302 in FIG. 3. This labeling indicates that the step represents an event that might trigger some further activity within the POS system..." (See the Sleeper reference, col. 5, lines 62-66). In this manner, only a select number of actions represent events which trigger the display of promotional material, i.e., the occurrence of events is conditional. Furthermore, the events can only occur at specific steps in the consumer transaction, rather than throughout the transaction, and no indication is made as to the duration of the displays triggered by the events. In contrast, the present specification discloses a consumer transaction that is divided into multiple time frames. For example, the present specification discloses a Welcome type-1 frame that "may be the default frame that a customer sees on approaching a client [POS terminal]." (See Specification, p. 20, lines 20-25). The Welcome type-1 frame may display a logo of a merchant or an advertisement, or toggle between the two. (Id. at p. 20, lines 25-31). Time is not conditional. A transaction must have a time component. According to the Sleeper reference, the auxiliary display device 602 only displays promotional material when an event occurs. Furthermore, because the Sleeper reference does not disclose the duration of the events, the events cannot properly be considered to divide a time period. Thus, it is respectfully submitted that the events disclosed in the Sleeper reference cannot be analogized to the time frames of the present specification. Therefore, it is respectfully submitted that the Sleeper reference does not disclose or suggest "dividing a consumer transaction at a POS location into multiple time frames, a total duration of the time frames equaling a total duration of the transaction," as recited in claim 1.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claim 1 for the above stated reasons. Because claims 2-13 and 29-59 depend from, and therefore include all of the limitations of claim 1, it is respectfully submitted that these claims are allowable for the reasons stated above.

Independent claim 68 includes substantially similar limitations as claim 1, including "dividing a consumer transaction at a POS location into multiple time frames, a total duration of the time frames equaling a total duration of the transaction." Therefore, it is respectfully submitted that claim 68 is allowable for the reasons stated above with reference to claim 1, and that the rejection of this claim should be withdrawn. Because claims 69-70 depend from, and therefore include all of the limitations of claim 68, it is respectfully submitted that these claims are allowable for the reasons stated above.

As stated above, claims 65-66 and 71-73 have been rejected under 35 U.S.C. § 103(a) as unpatentable over the Sleeper reference. (See 10/20/04 Office Action, ¶ 11).

Claim 65 recites a method for determining advertisements ("ads") for presentation to multiple consumers at respective POS locations comprising "substantially simultaneously receiving first and second requests for ads for display when a transaction meets predetermined criteria, each request transmitting respective information about respective consumer transactions occurring at respective POS locations" and "determining based upon both the first and second requests that the first and second transactions are similar enough that one ad will satisfy both requests" in conjunction with "responding to both requests with the same response indicating the one ad."

The Examiner has asserted that the Sleeper reference discloses the method substantially as claimed, but fails to disclose "determining...that the first and second transactions are similar enough that one ad will satisfy both requests." (See 4/21/05 Office Action, ¶ 59). The Examiner states that adding a correlation/priority filter to the system of the Sleeper reference

would have been obvious for providing advertising to consumers if only one POS screen were available for multiple POS locations. (See 4/21/05 Office Action, ¶ 60). Initially, it should be noted that the Sleeper reference neither discloses nor suggests a method for determining promotional material for presentation to multiple consumers at multiple POS locations. In fact, the system of the Sleeper reference is described with respect to a singular POS and a single retail transaction using the POS system. (See the Sleeper reference, col. 1, lines 51-54). Specifically, the Sleeper reference states, “[t]he net result is the real-time display to a customer of specific information tailored to that customer in the context of the retail transaction.” (Id. at col. 2, lines 6-9). Applicants respectfully submit that the Sleeper reference makes no showing or suggestion that a single POS screen may be used for multiple POS locations, but actually teaches away from such an arrangement. Thus, it appears that Examiner is using improper hindsight to suggest that the Applicants’ invention is obvious in view of the Sleeper reference.

Furthermore, Applicants respectfully submit that the Examiner has misunderstood the subject matter of claim 65. Claim 65 recites, “each request transmitting respective information about respective consumer transactions occurring at respective POS locations.” As taught by the present specification, the requests are transmitted from different POS locations, each using a POS system 126 which includes a transaction computer 1261 and a display 241. (See Specification, p. 13, lines 19-31). Thus, the method of claim 65 “determin[es] based upon both the first and second requests that the first and second transactions are similar enough that one ad will satisfy both requests” and “respond[s] to both requests with the same response indicating the one ad.” The Examiner has stated that the Sleeper reference purportedly discloses displaying advertising at multiple terminals because it was well known at the time. (See 4/21/05 Office Action, ¶ 91). However, even if this were true, the Sleeper reference indicates that in POS systems of prior art, “advertisements and information are printed or displayed identically to each customer, on a random basis, or on the basis of simple item code matching.” (See the Sleeper reference, col. 1, lines 33-35). Therefore, the Sleeper reference would suggest that in POS systems of prior art, multiple customers may each be presented with the same advertisement as a result of independent determinations based upon respective purchases of the same item. The

Sleeper reference makes no showing or suggestion that a single determination can be made “based upon both the first and second requests . . . that one ad will satisfy both requests.” Thus, it is respectfully submitted that the Sleeper reference does not disclose or suggest “determining based upon both the first and second requests that the first and second transactions are similar enough that one ad will satisfy both requests” and “responding to both requests with the same response indicating the one ad” for display at multiple POS locations, as recited in claim 65.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claim 65 for the above stated reasons. Because claim 66 depends from, and therefore includes the limitations of claim 65, it is respectfully submitted that this claim is allowable for the above stated reasons and that the Examiner should withdraw the rejection of this claim.

Independent claim 71 includes substantially similar limitations as claim 65, including “substantially simultaneously receiving first and second requests for ads for display when a transaction meets predetermined criteria, each request transmitting respective information about respective consumer transactions occurring at respective POS locations” and “determining based upon both the first and second requests that the first and second transactions are similar enough that one ad will satisfy both requests” in conjunction with “responding to both requests with the same response indicating the one ad.” As such, Applicants respectfully submit that claim 71 is allowable for the reasons stated above with reference to claim 65. Because claims 72-73 depend from, and therefore include all of the limitations of claim 71, it is respectfully submitted that these claims are allowable for the reasons stated above with regard to claim 71. Therefore, Applicants respectfully request that the Examiner withdraw the rejections of claims 71-73.

Claims 14-15 and 26-28 were rejected under 35 U.S.C. § 103(a) as unpatentable over the Sleeper reference in view of U.S. Patent 6,456,981 to Dejaeger et al. (“the Dejaeger reference”). (See 4/21/05 Office Action, ¶ 64).

The Examiner has stated that the Sleeper reference shows the invention

substantially as claimed, but fails to disclose compiling a database of advertising material for display at a POS system and selectively picking ads to provide the consumer. The Examiner purportedly cures the deficiencies of the Sleeper reference with the teachings of the Dejaeger reference. However, the Dejaeger reference fails to cure the above described deficiencies of the Sleeper reference. Thus, Applicants respectfully submit that because claims 14-15 and 26-28 depend from, and therefore include the limitations of claim 1, these claims are allowable for the reasons stated above with regard to claim 1. Therefore, it is respectfully requested that the Examiner withdraw the rejections of claims 14-15 and 26-28.

Claim 67 was rejected under 35 U.S.C. § 103(a) as unpatentable over the Sleeper reference in view of the Dejaeger reference in further view of U.S. Patent 6,615,183 to Kolls ("the Kolls reference"). (See 4/21/05 Office Action, ¶ 72).

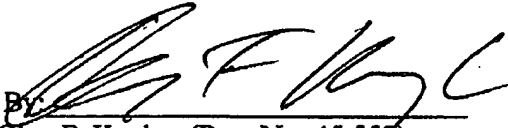
The Examiner has stated that the Sleeper reference and the Dejaeger reference show the invention substantially as claimed, but fails to disclose "recording a representation of any response to the [POS] ad." The Examiner purportedly cures the deficiencies of the Sleeper reference with the teachings of the Kolls reference. However, independent claim 67 includes substantially the same limitations as independent claim 1, including "dividing a transaction into time frames, a total duration of the time frames equaling a total duration of the transaction." Therefore, in view of the reasons stated above with reference to claim 1, it is respectfully submitted that neither the Sleeper reference nor the Dejaeger reference nor the Kolls reference, either alone or in combination, discloses or suggests "dividing a transaction into time frames, a total duration of the time frames equaling a total duration of the transaction," as recited in claim 67. Thus, Applicants respectfully request that the Examiner withdraw the rejection of claim 67.

IV. CONCLUSION

In light of the foregoing, Applicants respectfully submit that all of the now pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, and an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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